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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/679,552	10/06/2003	Jurgen Wafzig	ZAHFRI P549US	3295
20210	7590	01/19/2005	EXAMINER	
DAVIS & BUJOLD, P.L.L.C. FOURTH FLOOR 500 N. COMMERCIAL STREET MANCHESTER, NH 03101-1151			HO, HA DINH	
		ART UNIT		PAPER NUMBER
				3681

DATE MAILED: 01/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

7/20

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/679,552	WAFZIG, JURGEN	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ha D. Ho	3681	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 06 October 2003.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 8-14 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 8-14 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/6/03</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

1. This is the first Office Action on the merits of Application No. 10/679,552 filed on 10/06/03.
2. Receipt is acknowledged of the Preliminary Amendment filed on 10/06/03. Claims 1-7 have been canceled, and new claims 8-14 have been added accordingly. Claims 8-14 are currently pending.

### ***Claim Objections***

3. Claim 13 is objected to because of the following informalities:
  - In line 3 of claim 13, “a first” should be changed to --the first-- since “external toroid disks” were recited in line 2.
  - Similarly, in line 4 of claim 13, “a second” should be changed to --the second--.Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 10, 13 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claim 10 recites the limitation "the output" in line 2. There is insufficient antecedent basis for this limitation in the claim.
- Claim 13, lines 5-6, the recitation of "a fixed link (9) of the first planetary gear set" constitutes a double inclusion since "a fixed link (9) of the first planetary gear set" was previously recited in claim 13, lines 4-5.
- Claim 13 recites the limitation "the fixed link (9') of the second planetary gear set" in lines 6-7. There is insufficient antecedent basis for this limitation in the claim.
- Claim 14, lines 6-7, the recitation of "a second planetary gear set" constitutes a double inclusion since "a second planetary gear set" was previously recited in claim 8, line 6.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 8-10 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Wittkopp (US 6,358,178).

Wittkopp teaches a split performance power train (see Fig. 1) comprising:

a friction wheel variable speed transmission (14); and  
a planetary gear set (18) designed as a summation set of gears,  
wherein a first planetary gear set (34) and a third planetary gear set (38) are planned,  
whereby the friction wheel variable speed transmission (14), the first planetary gear set (34), a  
second planetary gear set (36) and the third planetary gear set (38) are coaxial and arranged  
consecutively in the direction of the power flow.

Regarding claim 9, wherein the transmitted power in the friction wheel variable speed  
transmission (14) over the first planetary gear set (34) is transmitted coaxially through the  
friction wheel variable speed (14) to the second planetary gear set (36).

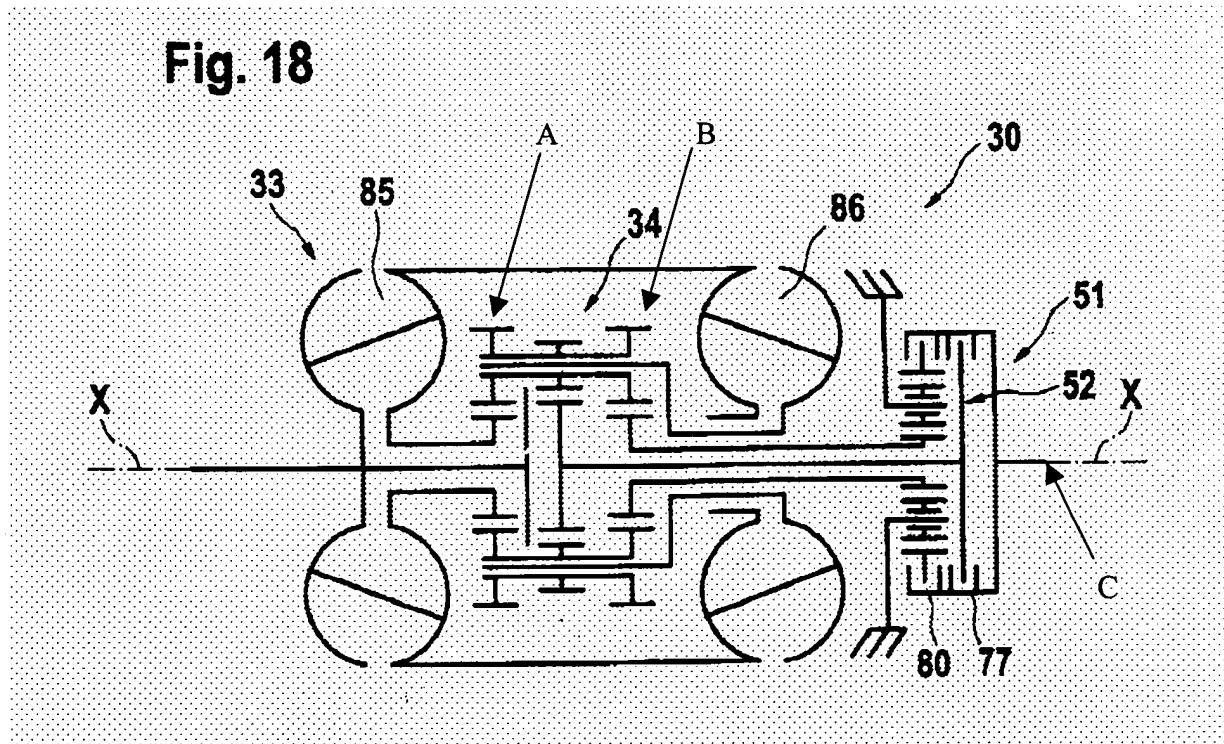
Regarding claim 10, wherein the third planetary gear set (38) is arranged at a side of an  
output (44).

Regarding claim 13, wherein external toroid disks (20, 22) of the friction wheel variable  
speed transmission (14) act upon an engine speed, whereby the first external toroid disk (20) is  
linked directly and the second toroid disk (22) is linked across a fixed link (56) of the first  
planetary gear set (34) with a motor shaft (26) and whereby the motor shaft (26) is linked across  
the fixed link (56) of the first planetary gear set (34) with a fixed link (58) of the second  
planetary gear set (36).

8. Claims 8-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Geiberger et al.  
(US 6,719,659).

Geiberger et al teach a split performance power train (see Fig. 18) comprising:  
a friction wheel variable speed transmission (33); and

a planetary gear set (34, 52) designed as a summation set of gears, wherein a first planetary gear set (A) (see the Fig. below) and a third planetary gear set (B or 52) are planned, whereby the friction wheel variable speed transmission (33), the first planetary gear set (A), a second planetary gear set (52 or B) and the third planetary gear set (B or 52) are coaxial and arranged consecutively in the direction of the power flow.



Regarding claim 9, wherein the transmitted power in the friction wheel variable speed transmission (33) over the first planetary gear set (A) is transmitted coaxially through the friction wheel variable speed (33) to the second planetary gear set (52).

Regarding claim 10, wherein the third planetary gear set (52) is arranged at a side of an output (C).

Regarding claim 11, wherein the first planetary gear set (A) is arranged between paired disks of the friction wheel variable speed transmission (33).

***Allowable Subject Matter***

9. Claims 12 and 14 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Cited Prior Art***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Schmidt'477, Coffey'787, Ezaki et al.'326, and Oshitari'055 which each shows a transmission including a friction wheel variable speed transmission, and a plurality of planetary gear sets.

***Communication***

11. Submission of your response by facsimile transmission is encouraged. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as the PTO's mail room processing and delivery time. For a complete list of correspondence not permitted by facsimile transmission, see M.P.E.P. 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check should not be submitting by facsimile transmission separately from the check. Responses submitted by facsimile transmission should include a Certificate of Transmission (M.P.E.P.. 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office on \_\_\_\_\_

(Date)

Typed or printed name of person signing this certificate:

\_\_\_\_\_  
\_\_\_\_\_

(Signature)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and M.P.E.P.. 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Examiner Ho whose telephone number is (703) 305-0738 (or 571-272-7091 after April 2005). The examiner can normally be reached on Monday-Friday from 7:30 A.M. to 5:00 P.M. Eastern Standard Time. If attempts to reach the examiner by phone are unsuccessful, the examiner's supervisor, Mr. Charles Marmor, can be reached at (703) 308-0830 (or 571-272-7095 after April 2005).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HDH  
(703) 305-0738  
January 14, 2005

*Ha Ho*  
**HA HO**  
**PRIMARY EXAMINER**  
Art Unit 3681      1/14/05